SUPREME COURT OF THE UNITED STATES.

No. 46.

THE UNITED STATES, APPELLANT,

vs.

THE HEIRS OF GEORGE I. F. CLARKE, DECEASED, AND THE HEIRS OF GEORGE ATKINSON, DECEASED.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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Before the Honorable Isaac H. Bronson, Judge of the Superior Court for the District of East Florida, and specially authorized by law to receive and adjudicate claims and titles to lands in the District of East Florida.

Be it remembered that on the twenty-second day of May, in the year of our Lord one thousand eight hundred and twenty-nine, George I. F. Clarke, for himself and the heirs and legal representatives of George Atkinson, deceased, by Joseph B. Lancaster, his attorney, brought and filed in the clerk's office of the superior court for the district of East Florida, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

TERRITORY OF FLORIDA, *Eastern District, Superior Court.*

To the honorable, the judge of said court in chancery sitting, the petition of George I. F. Clarke, for himself and the heirs and legal representatives of George Atkinson, deceased, respectfully sheweth:

That on the eighth day of October, in the year eighteen hundred and sixteen, the aforesaid George Atkinson, since dead, and then an inhabitant of East Florida, and a Spanish subject, presented his petition to Don Jose Coppinger, then acting governor of the province of East Florida, (in virtue of authority derived from the King of Spain,) praying a grant of fifteen thousand acres of land at the places in said petition mentioned, for and in consideration of sundry services by him before that time performed for the benefit of the Spanish Government, as will more fully appear in said petition.

Your petitioner further sheweth, that, in consideration of the matters in said petition set forth, the aforesaid Governor Coppinger, did actually grant him, the said George Atkinson, the lands in his aforesaid petition asked for, and directed their survey in those places, or others equally advantageous to the said Atkinson, which might be pointed out, all of which will more fully appear by reference to the said petition, dated as above, and the decree of Governor Coppinger, bearing date on the twentieth day of the same month and year, a copy whereof will be filed herein, marked as Exhibit No. 1.

Your petitioner further sheweth, that the said grant was since surveyed in four surveys, one of six thousand acres, near Santa Fe river, at Darceys's creek, on Ray's trail, beginning at a pine, and running N. 54° E. 141–42 to a pine; 2d line S. 36° E. 282–84 to a hickory; 3d line, N. 54° E. 35–29 to a pine; 4th line, S. 36° E. 168 to a pine; 5th line, E. 100 chains to a pine; 6th, south 70–71

to a pine; 7th, west 111 to a pine; 8th, S. 54° W. 58 to a pine; 9th, N. 36° W. 359–42, to a red oak; 10th, S. 54° W. 70–71 to a red oak; 11th, N. 36° W. 141–42 to the beginning. Four thousand acres situated on the north of Dunn's creek, that communicates Dunn's lake with the St. John's river, beginning a cypress; thence, north 100 chains to a pine; 2d line, east 400 chains to a pine; 3d, south 100 chains to a live oak; 4th, formed and bounded by said creek. Three thousand acres on the middle branch of Haw creek, running into Dunn's lake, beginning at a poplar and running south 45° W. 150 to a pine; 2d line, S. 45° E. 200 chs. to a pine; 3d line, N. 45° E. 150 chs. to an ash; 4th line, formed and bounded by Haw creek. And two thousand acres at Dixon's hammock, on the southeast of Bowleg's savannah, beginning at a white oak, and running N. 78° W. 212–13 to a white oak; 2d line, S. 12° W. 70–71 to a pine; 3d line, S. 78° E. 141–42 to a stake; 4th, S. 12° W. 70–71 to a pine; 5th, S. 78° E. 70–71 to a pine; 6th, N. 12° E. 141–42 to the beginning. Copies of all which surveys will in due time be filed herein as Exhibits Nos. .

Your petitioner further sheweth that the claim of the aforesaid George Atkinson, was filed before the board of land commissioners appointed to ascertain claims and titles to lands in East Florida, who, or the register and receiver (who succeeded to their duties) as he is informed and believes, have refused to recommend the same to the favorable notice of the United States Government, and have rejected the same, but have not reported it forged or antedated; a copy of all which proceedings will in due time be filed herein and prayed to be made a part of these proceedings. Your petitioner further sheweth, that he hath legal right under the said George Atkinson, to acres, parcel of the grant aforesaid, and that he and the legal heirs and representatives of the aforesaid George Atkinson, deceased, have a good right and title to the lands granted as aforesaid in fee simple.

And your petitioner for himself, and the heirs and legal representatives of the said George Atkinson, deceased, alleges and avers, that by the usages, customs, laws and ordinances of the King of Spain, he and they are entitled to a fee simple estate as aforesaid, and by the treaty between Spain and the United States of the 22d of February, 1819, the United States are bound to recognize and confirm to him and them their aforesaid title in as full and ample a manner as if they held the same or ought to have the same under the Spanish Government, if that government were now exercising sovereign jurisdiction over this territory. Your petitioner further alleges, all the lands in this petition claimed, lie within the jurisdiction of this honorable court. Without the foregoing, the United as far as he knows, are the rightful claimants to said lands.

Your petitioner, for himself and the heirs and legal representatives of the aforesaid George Atkinson, deceased, prays that this honorable court will take jurisdiction of this his petition, and that a copy hereof and a citation to shew cause, &c., may be served on

Thomas Douglas, Esquire, United States attorney for this district, pursuant to the provisions of the statute in such cases made and provided; and finally, that your honor will decree to your petitioner a confirmation of his title to the lands in this his petition claimed, and such other and further relief as in equity, &c.; and your petitioner as in duty, &c.

JOS. B. LANCASTER, *for Claimants.*

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon, is in the words and figures, following, to wit:

"Served copy on Thomas Douglas, Esq., this 6th day of July, 1829.

ISRAEL SMITH, *Dep. Marshal.*"

Answer of the United States Attorney.

And afterwards, to wit, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and thirty, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES OF AMERICA, *ads.* GEORGE I. F. CLARKE for himself and others. } Petition and Claim, 15,000 Acres of land.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of George I. F. Clarke, (who claims) for himself and the heirs and legal representatives of George Atkinson, deceased. The said attorney for and in the name of the same United States, saving and reserving to them now, and at all times hereafter all, and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint contained for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, answereth and saith:

That whether on the eighth day of October, in the year eighteen hundred and sixteen, the aforesaid George Atkinson, presented his petition to Don Jose Coppinger, then acting governor of the province of East Florida, (or not) praying a grant of fifteen thousand acres of land, in consideration of sundry services by him before that time performed, for the benefit of the Spanish Government, or whether or not, the said George Atkinson, ever before that time rendered any such services for the benefit of said governmont; or whe-

ther or not, in consideration of the matters in said petition set forth, the said Governor Coppinger, did actually grant him the said George Atkinson, the lands in his aforesaid petition asked for, as the said petitioners in their said petition or bill of complaint, have stated and alleged, and cannot therefore either admit or deny the same; nor has he any knowledge of the making of the surveys in the said petition or bill of complaint, mentioned and described, and cannot therefore either admit or deny the same, but respectfully prays this honorable court, that the said petitioner may be required to show and prove upon the hearing of this cause, the presentation of the above mentioned petition by the said George Atkinson, to the said Don Jose Coppinger, governor, &c., as aforesaid, praying a grant of the said lands, and of all the matters and things therein mentioned, alleged, and stated, as an inducement to the said Governor Coppinger, to make the said grant of the said land; and particularly that they may be required to show the specific services which were rendered (if any such services were rendered by the aforesaid George Atkinson,) for the benefit of the Spanish government aforesaid, as one in the said petition or bill of complaint, stated to have been set forth in the said petition so presented to the said governor, as aforesaid; and especially that they may be required to shew, and prove when and where the same were rendered and at whose request, or by whose order they were performed, if any such were performed, and in what they consisted and the value thereof; and also, that may be required to shew and prove the making and execution of the said supposed grant, (if any such was ever made) and also the making of the said surveys, and when, and by whom they were made, and all other matters and things in the said petition or bill of complaint, alleged, as they are therein stated according to law, and the usages of courts of equity.

And this respondent avers, that if any such grant of the said tract of land was ever made to the said George Atkinson, as the said petitioner has in his aforesaid petition or bill of complaint stated and described, which is by no means admitted, it was made contrary to and in violation of the laws, ordinances, and royal regulations of the said Government of Spain, which were in force at the time when the said supposed grant is alleged to have been made, providing for the granting of lands in its provinces, of which said provinces, East Florida, aforesaid, was then one and that the said supposed grant was never approved by the said Government of Spain, and this respondent denies that at the time when the said supposed grant is alleged to have been made, the said Don Jose Coppinger, governor, &c., as aforesaid, had any power or authority whatever to make the said supposed grant, and that the same was and is entirely null and void; and this respondent farther prays this honorable court, that the aforesaid petitioner may be required to shew and prove upon the hearing of this cause, the specific power under which the said governor claimed to act in making the said supposed grant, (if indeed any such was ever made.)

And this respondent saith, that if such grant of fifteen thousand acres of land was ever made by the said Don Jose Coppinger, to the said George Atkinson, which is not admitted, it called for fifteen thousand acres of land in Cedar swamp, and on the west side of a lake called Upper Little Lake, and that it by no means authorized the location of the said fifteen thousand acres, in detached parts, nor did it authorize the said George Atkinson to locate the said fifteen thousand acres of land, or any part thereof, at any one of the places mentioned and described, as having been surveyed under the said supposed grant, did not authorize a location of any lands which were not vacant.

And this respondent farther saith, that at the time last aforesaid, it was and for a long space of time had been the fixed and settled policy of the Government of Spain, to parcel out its colonial domain with a view solely to the objects of increasing the population of its provinces, and of benefiting its indigent subjects, and that according to that policy grants of lands for the purposes of speculation were never approved or tolerated by the said government, and that the aforesaid supposed grant was obtained by the said George Atkinson, if it was obtained at all, for purposes of speculation only.

And this respondent farther says, that the said supposed grant is not shewn to have been made with the formalities required by the laws, ordinances, and royal regulations aforesaid; that the said laws, ordinances, and royal regulations required the report of the king's fiscal minister, or of the king's engineer, upon every petition for a grant of lands, and that no such report accompanies this grant, nor is it pretended or alleged, that any such report was ever made in this case, and that for want of this legal requisite the said supposed grant might and probably would have been set aside and declared null and void by the Government of Spain aforesaid, and that it ought for the same reason to be declared null and void by this honorable court.

And this respondont farther saith, that it is not pretended or alleged by the said petitioners, that the said Don Jose Coppinger, had any power or authority whatever to make the said supposed grant, nor has the said petitioner shewn whether or not the said George Atkinson, died intestate, or who are the legal heirs of the said George Atkinson, whether they are minors or otherwise, if any such there be, nor indeed has he expressly alleged that the said George Atkinson left any legal heirs or representatives, or that any such now exist, nor has he shewn any title in himself to the said tract of land or any part thereof, nor has he stated or set forth in his said petition any bargain, sale, deed, or deeds of conveyance from the said George Atkinson in his lifetime, or from any of the said legal representatives of the said George Atkinson, (since his death) to the said petitioner, to all or any part of the said lands, or in what right he claims; whether by gift, descent, devise, conveyance, or otherwise; and this respondent relies upon the aforesaid defects in the said petition or bill of complaint, as matter of defence on the hearing of this cause.

And this respondent farther says, that by the laws and uses of Spain, all original grants or titles to land, made by the governors of East Florida, were required to be deposited and kept in the office of the public archives (or as it was then usually called, the escribano's office) of this province, and that no such original grant or title as the one set forth by the said petitioner as having been made by the said Governor Coppinger to the said George Atkinson, is to be found in said office, nor is it known that any such was ever deposited in the said office.

This respondent admits that the claim of the aforesaid George Atkinson was filed before the board of land commissioners in the said petition or bill of complaint mentioned, and that the said board rejected the same, but denies that the said petitioner or the legal heirs of the said George Atkinson have any right or title to or any estate in the said lands, or any of them whatever, or that the said United States are bound in any manner to recognize or confirm to him or them any title at all thereto, or to any part thereof.

And this respondent farther saith, that the said George Atkinson in his life time, did not actually occupy, possess, cultivate, or improve the said tracts of land, or any of them, nor have the said legal heirs of the said George Atkinson, or any of them, or the said George I. F. Clarke, at any time, actually possessed, occupied, cultivated, or improved the said tracts of land, or any of them, but have wholly failed to do so, and have always hitherto entirely neglected and abandoned the same.

And now having fully answered all the matters and things in the said petition or bill of complaint alleged and contained in manner and form as they are therein stated and set forth, this respondent prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLAS,
U. S. Atty. for East Florida.

Bill of Revivor.

And afterwards, to wit, on the thirteenth day of July, in the year of our Lord one thousand eight hundred and forty, the said claimant, by his solicitor, brought and filed in the clerk's office aforesaid, a bill of revivor, which said bill is in the words and figures following, to wit:

Superior Court of Law and Equity.
Eastern District of Florida.

To the Honorable Isaac H. Bronson, Judge of the said Court.

The petition of Felicia M. F. Garvin, James I. Clarke, Thomas S. Clarke, Daniel I. A. Clarke, Joseph L. Clarke, George P. Clarke, John D. Clarke, and William R. Clarke, (are the legal

representatives of George I. F. Clarke deceased) respectfully sheweth: That heretofore, within the time limited by act of Congress, in such case made and provided, one George I. F. Clarke and others, did file a petition in said court against the United States, setting forth his claim to a certain tract of land containing fifteen thousand acres of land within said eastern district of Florida, and within the jurisdiction of this honorable court. That upon the said petition of the said George I. F. Clarke, process from this court was duly issued and served upon Thomas Douglas, Esq., attorney for the United States for the district of East Florida, and that other proceedings were had in said case.

Your petitioner further shews that they are the heirs of the said George I. F. Clarke, and as such are entitled to have the said suit and proceedings revived against the said United States. They therefore pray that said suit and proceedings may be revived, and that they may be put in like situation as they were before the death of the said George I. F. Clarke; that said petitioners may be permitted to prosecute said suit to a final determination, and that to this end process may forthwith issue to the said Thomas Douglas, Esq., attorney for the United States in pursuance of the statute.

And your petitioners, as in duty bound, will ever pray.

P. S. SMITH, *Atty. for Petitioners.*

Cause Revived.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and forty, to which term this cause had come by regular continuance, to wit, on Thursday, the fourth day of said term, and the sixteenth day of the said month, the following entry of record was made in this cause, to wit:

Felicia M. F. Garvin, James I. Clarke, Thomas S. Clarke, Daniel I. A. Clarke, Joseph L. Clarke, George P. Clarke, John D. Clarke, and William R. Clarke, heirs and legal representatives of George I. F. Clarke, deceased, and others, *vs.* The United States of America.	Land Claim, 15,000 Acres.

This day came as well the counsel for the said claimants, as the counsel for the said United States, and a bill of revivor having been filed in this cause on behalf of the said Felicia M. F. Garvin, James I. Clarke, Thomas S. Clarke, Daniel I. A. Clarke, Joseph L. Clarke, George P. Clarke, John D. Clarke, and William R. Clarke, as heirs and legal representatives of the said George I. F. Clarke, deceased. And notice thereof having been duly given to the counsel for the United States, the said counsel for the said

claimants pray that this cause may proceed in the name of the said heirs, against the said United States of America, which is ordered accordingly.

Evidence and testimony offered and read in this cause at the hearing thereof; and numbered one and two, to wit:

No. 1.

Memorial for Grant.

Offered and read in behalf of the Claimant.

TRANSLATION.

Petition.

His Excellency, the GOVERNOR:

Don George Atkinson, merchant of Fernandina, presents himself to your excellency, stating: That as the long and varied services of the petitioner are known to government, and are matter of public notoriety, he hopes that your excellency will dispense with his presenting documents in their support, as they are bulky and incomplete, in consequence of having lost many of his papers; permitting him, therefore, a brief relation of the same: He served some years without stipend or other compensation, in the custom-house of that city; he served in the class of lieutenant, in the defence of this province, during the revolution of 1812, '13, '14, and 15, without pay or rations; was the second in command of the expedition on the continent in 1813; was the adjutant of Don Philip Younge, who commanded the militia of this frontier in the other expedition of the same year, in which he suffered the battle of Watermans, and saw his brother die therein. The slaves, water-crafts, animals, and provisions of his plantation on this island, have always been freely used in the service of government during the many troubles and unfortunate occurrences of this frontier, from the beginning of 1812 to the present date. In 1813 the insurgents burnt the improvements of another plantation he owned on St. John's river, which had cost him about ten thousand dollars. His wide circle of commerce, extensive cuttings of lumber, crops of cotton, &c., during the last twelve years, have contributed largely to the revenues of government, and to foment the commerce and agriculture of the province; and as he has never enjoyed any pay for his services, remuneration of his expenses, nor compensation of his labors, he therefore prays your excellency will be pleased to grant him in property, fifteen thousand acres of land in Cedar swamp, and on the west of the lake named Upper Little lake; which favor he hopes to obtain from the bounty of your excellency. Fernandina, Amelia Island, 8th of October, 1816.

GEORGE ATKINSON.

claimants pray that this cause may proceed in the name of the said heirs, against the said United States of America, which is ordered accordingly.

Evidence and testimony offered and read in this cause at the hearing thereof; and numbered one and two, to wit:

No. 1.

Memorial for Grant.

Offered and read in behalf of the Claimant.

TRANSLATION.

Petition.

His Excellency, the GOVERNOR:

Don George Atkinson, merchant of Fernandina, presents himself to your excellency, stating: That as the long and varied services of the petitioner are known to government, and are matter of public notoriety, he hopes that your excellency will dispense with his presenting documents in their support, as they are bulky and incomplete, in consequence of having lost many of his papers; permitting him, therefore, a brief relation of the same: He served some years without stipend or other compensation, in the custom-house of that city; he served in the class of lieutenant, in the defence of this province, during the revolution of 1812, '13, '14, and 15, without pay or rations; was the second in command of the expedition on the continent in 1813; was the adjutant of Don Philip Younge, who commanded the militia of this frontier in the other expedition of the same year, in which he suffered the battle of Watermans, and saw his brother die therein. The slaves, water-crafts, animals, and provisions of his plantation on this island, have always been freely used in the service of government during the many troubles and unfortunate occurrences of this frontier, from the beginning of 1812 to the present date. In 1813 the insurgents burnt the improvements of another plantation he owned on St. John's river, which had cost him about ten thousand dollars. His wide circle of commerce, extensive cuttings of lumber, crops of cotton, &c., during the last twelve years, have contributed largely to the revenues of government, and to foment the commerce and agriculture of the province; and as he has never enjoyed any pay for his services, remuneration of his expenses, nor compensation of his labors, he therefore prays your excellency will be pleased to grant him in property, fifteen thousand acres of land in Cedar swamp, and on the west of the lake named Upper Little lake; which favor he hopes to obtain from the bounty of your excellency. Fernandina, Amelia Island, 8th of October, 1816.

GEORGE ATKINSON.

Grant.

Decree.

ST. AUGUSTINE, OF FLORIDA, *October* 20, 1816.

Having in consideration the merits cited by Don George Atkinson, and the beneficent will of his majesty requiring that the good works of his subjects should be recompensed, I grant him in property, and without injury to a third person, the lands he solicits in this petition; consequently the surveyor general will run them for him in the places he mentions, or in others that are vacant and of equal convenience to the party.

COPPINGER.

Certificate of Aguilar.

Certificate.

Don Tomas de Aguilar, lieutenant of the army and secretary of the government of St. Augustine, of East Florida, for his majesty.

I certify that the foregoing copy is faithfully drawn from the original that exists in the secretary's office in my charge; and in compliance with the order I give the present, in St. Augustine, of Florida, 22d October, 1816.

TOMAS DE AGUILAR.

St. Augustine, 29th June, 1830. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

Testimony of Antonio Alvarez.

SUPERIOR COURT, *East Florida.* *July Term*, 1840.

Heirs of GEORGE I. F. CLARKE and heirs of GEORGE ATKINSON *vs.* THE UNITED STATES. } Land Claim, 15,000 Acres.

JULY 20, 1840.

Antonio Alvarez, keeper of the public archives, sworn as a witness, in open court, on behalf of the claimants.

Upon original certified copy by Tomas de Aguilar of the memorial and grant in this cause, brought into court by the said witness under subpœna *duces tecum*, being presented to the witness, he states: That the certificate affixed to said copy is in the handwriting of Tomas de Aguilar, and signed by him. Witness knows nothing of the original grant in this case, except from seeing this certified copy by Aguilar, in his office. This certified copy was returned to his office by the register and receiver who acted as land

commissioners, under the act of Congress. Witness does not recollect the time; about the year 1830 or 1831.

Upon the four original certificates and plats of survey of the land claimed in this case, brought into court by the said witness under subpœna *duces tecum*, being presented to the witness, he states: That they are four original plats of survey of the grant in this case, and which were also deposited in his office by the register and receiver. Witness knows the handwriting of George I. F. Clarke, who was surveyor general of this province at the date of said surveys, and said certificates of survey are signed by him.

No. 2.

Certificate and Plat of Survey of 4,000 *Acres.*

Offered and read in behalf of the Claimant.

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and commissioned surveyor general of the said province by the government thereof, do certify that I have surveyed and delineated for Don Jorge Atkinson, four thousand acres of land northwardly of Dunn's creek, which runs from Dunn's lake to the river St. John's, and above the crossing place of said creek, in part of a larger quantity which was granted to him by the government in absolute property on the 20th October, one thousand eight hundred and sixteen; and said four thousand acres are conform to the following plot, and to the original thereof, which I keep. Northern District, 20th January, one thousand eight hundred and eighteen.

JORGE I. F. CLARKE.

[For plat of survey, see original, p. 16.]

St. Augustine, 22d March, 1830. I certify that the within is a correct copy and translation of a plot and certificate contained in the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

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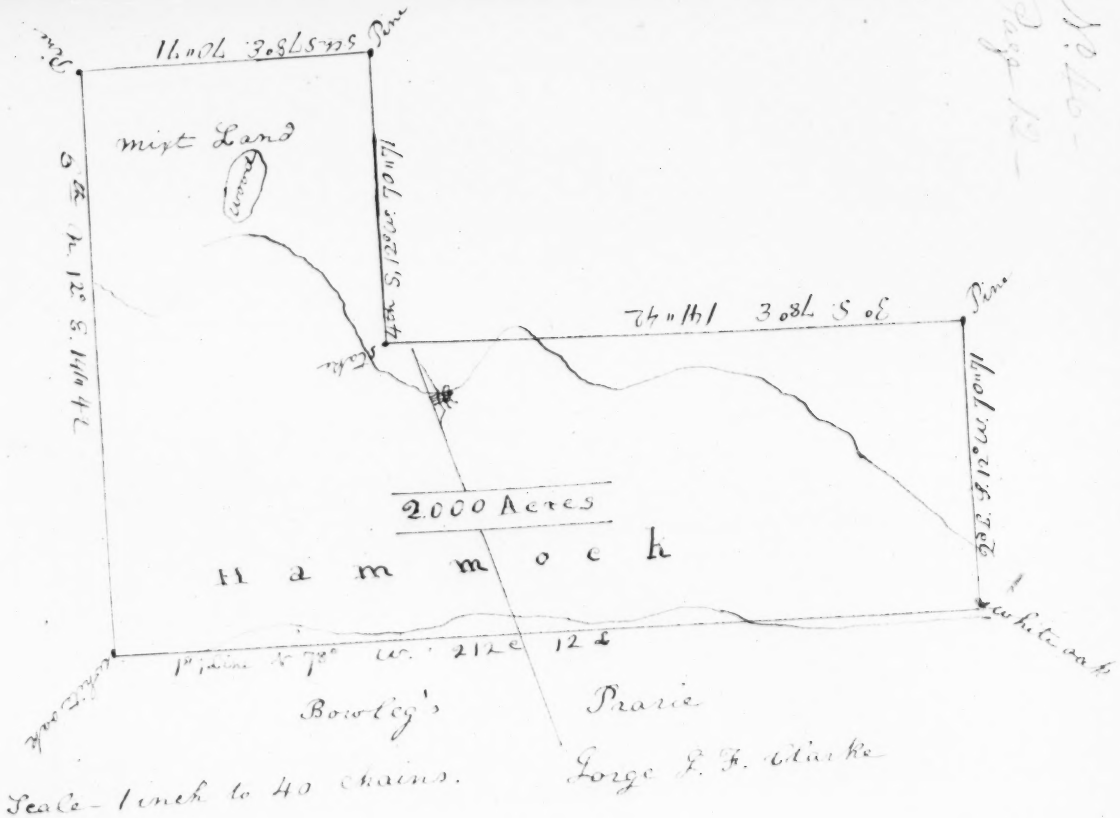
mixt Land
2.000 Acres
H a m m o c k
Bowlig's
Prarie
Scale - 1 inch to 40 chains.

Certificate and Plat of Survey of 3,000 *Acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and commissioned surveyor general of this province, by the government thereof, do certify that I have surveyed and delineated to Don Jorge Atkinson three thousand acres of land, on the middle arm of Haw creek, which empties itself in Dunn's lake, towards the east, in part of a greater quantity which were granted to him in absolute property on the twentieth October, one thousand eight hundred and sixteen; which tract is conform to the following plot, and to the original thereof, which I keep. Northern District, 12th March, one thousand eight hundred and eighteen.

GEORGE I. F. CLARKE.

[For plat of survey, see original, page 17.]

St. Augustine, 22d March, 1830. I certify that the preceding is a correct copy and translation of the plot and certificate contained in the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

Certificate and Plat of Survey of 2,000 *Acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and commissioned surveyor general of said province, by the government thereof, do certify that I have surveyed and delineated to Don Jorge Atkinson, two thousand acres of land, in the place called Dupon's hammock, southeasterly of Bowleg's prairie, and southwesterly of Paynestown, in part of a larger quantity which was granted to him by the government on the twentieth October, one thousand eight hundred and sixteen; which 2,000

acres are conform to the following plot, and to the original thereof, which I keep. Northern District, 21st March, 1818.

JORGE I. F. CLARKE.

[For plat of survey, see original, page 18.]

St. Augustine, 22d March, 1830. I certify that the preceding is correctly translated and copied from the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

Certificate and Plat of Survey of 6,000 *Acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and commissioned surveyor general of said province, by the government thereof, do certify that I have surveyed and delineated, for Don Jorge Atkinson, six thousand acres of land, on Darcey's creek, and extending from the natural bridge of Santa Fe, on the road called Ray's trail, for the complement of fifteen thousand acres which were granted to him in absolute property on the 20th October, one thousand eight hundred and sixteen; which 6,000 acres are conform to the following plot, and to the original thereof, which I keep. Northern District, 24th of March, 1818.

GEORGE I. F. CLARKE.

[Here is to follow the annexed plat of survey of 6,000 acres of land.]

St. Augustine, 22d March, 1830. I certify that the preceding is a correct copy and translation of the survey and certificate contained in the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

Cause heard and Submitted.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and forty, to wit, on Monday the 6th day of said term and the twentieth day of said month, the following entry of record was made in this cause, to wit:

Felicia M. F. Garvin, James I. Clarke, Thomas S. Clarke, Daniel I. A. Clarke, Joseph L. Clarke, George P. Clarke, John D. Clarke, and William R. Clarke, heirs of George I. F. Clarke, deceased, and Philip R. Younge, and Mary Younge his wife, Samuel Humphries, and Letitia Humphreys his wife, Jane Gains, widow of Doct. Joseph Gains, and Letitia Atkinson, heirs and legal representatives of George Atkinson, deceased, *against* The United States of America.	Land Claim, 15,000 Acres.

Decree of the Court.

This day came as well the counsel for the said claimants as the counsel for the United States, and this cause having been revived in the name of the said heirs of the said George I. F. Clarke by the order of this court made herein on the 16th instant, the counsel for the said claimants now moved the court that this cause may also proceed in the name of Philip R. Younge and Mary Younge his wife, Samuel Humphries and Letitia Humphries his wife, Jane Gains, widow of Doctor Joseph Gains, and Letitia Atkinson, heirs and legal representatives of George Atkinson, deceased, against the said United States, and with the assent of the attorney of the United States thereto, it is accordingly ordered; whereupon this cause came on to be heard this day, and the petition of the said claimants and the answer of the attorney of the United States thereto were read to the court. The counsel for the said claimant then offered and read in evidence a certified copy by the keeper of the public archives of the original certified copy by Tomas de Aguilar of the memorial and grant in this case, together with a certified translation thereof. And Antonio Alvarez, keeper of the public archives, appeared in court in obedience to a subpœna *duces tecum*, with the said original certified copy by Tomas de Aguilar, and being sworn, testified in relation thereto as by his testimony appears. The said claimants' counsel then offered and read in evidence four original certificates and plats of survey for the land claimed in this case, made by Don George Clarke, and dated the 20th January, and the 12th, 21st, and 24th of March, 1818; and Antonio Alvarez was examined, and testified in relation to the said surveys as by his testimony appears, and the evidence and testimony in this case being now concluded, this claim was submitted to the court for its decree thereon; and the said court having examined the claim of the said petitioners and the answer of the attorney of the United States,

together with the evidence offered and read in this cause, and having maturely considered the same, doth order, adjudge and decree, that this claim is valid, and that in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby confirmed, adjudged and decreed unto the said claimants, to the extent, for the number of acres, and at the places as in the four certificates and plats of survey of said land; the first for four thousand acres, dated 20th January, 1818; the second for three thousand acres, dated 12th March, 1818; the third for two thousand acres, dated 21st March, 1818; and the fourth for six thousand acres, dated 24th of March, 1818, and filed herein, are set forth, to wit: The first survey of four thousand acres is situated northwardly of Dunn's creek, which runs from Dunn's lake to the river St. John's, and above the crossing place of said creek, and has the following lines and boundaries, to wit: The first line commences at a cypress at said crossing place, and runs north one hundred chains to a pine; the second line commences at said pine, and runs east four hundred chains to another pine; the third line runs from said pine to a stake at Dunn's creek, and measures one hundred chains; and the other side of said tract is bounded by said Dunn's creek. The second survey of three thousand acres is situated on the middle arm of Haw creek, which empties itself into Dunn's lake towards the east, and has the following lines to wit: The first line commences at a poplar, and runs south forty-five degrees west one hundred and fifty chains to a pine; the second line commences at said pine, and runs south forty-five degrees east two hundred chains to another pine; the third line commences at said pine, and runs north forty-five degrees east one hundred and fifty chains to an ash on the banks of Haw creek; and the fourth line follows said creek to the beginning of the first line. The third survey of two thousand acres is situated in the place called Dupon's hammock, southeastwardly of Bowleg's prairie, and southwestwardly of Paynestown, and has the following lines, to wit: The first line commences at a white oak, and runs north seventy-eight degrees west two hundred and twelve chains and twelve links to another white oak; the second line runs from said white oak south twelve degrees west seventy chains and seventy-one links to a pine tree; the third line runs from said pine tree south seventy-eight degrees east one hundred and forty-one chains and forty-two links to another pine; the fourth line runs from said pine south twelve degrees west seventy chains seventy-one links to another pine; the fifth line runs from said pine south seventy-eight degrees east seventy chains seventy-one links to another pine; the sixth line runs from said pine north twelve degrees east one hundred and forty-one chains and forty-two links to the white

oak at the beginning of the first line; and the fourth survey of six thousand acres is situated on Darcey's creek, and extending from the natural bridge of the Santa Fe on the road called Ray's trail, and has the following lines, to wit: The first line commences at a pine, and runs to another pine north fifty-four degress east one hundred and forty-one chains and forty-two links; the second line runs from said pine south thirty-six degrees east two hundred and eighty-two chains and eighty-four links to a hickory; the third line runs from said hickory north fifty-four degrees east thirty-five chains and twenty-nine links to a pine tree; the fourth line runs from said pine tree south thirty-six degrees east one hundred and sixty-eight chains to another pine; the fifth line runs from said pine east one hundred chains to another pine; the sixth line runs from said pine south seventy chains seventy-one links to another pine; the seventh line runs from said pine west one hundred and eleven chains to another pine; the eighth line runs from said pine south fifty-four degrees west fifty-eight chains to another pine; the ninth line runs from said pine north thirty-six degrees west three hundred and fifty-nine chains and forty-two links to a red oak; the tenth line runs from said red oak south fifty-four degrees west seventy chains and seventy-one links to another red oak; and the eleventh line runs from said red oak north thirty-six degrees west one hundred and forty-one chains and forty-two links to a pine at the beginning of the first line.

Appeal.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and forty, to wit, on Wednesday, the eighth day of said term, and the twenty-second day of said month, the following entry of record was made in this cause, to wit:

The United States of America *ads.* The heirs of George I. F. Clarke, deceased, and the heirs of Geo. Atkinson, deceased.	Land Claim, 15,000 Acres.

This day came as well the attorney of the United States for this district, as the solicitor for the said claimants, and the said attorney of the United States moved the court that an appeal be granted in this case on behalf of the said United States from the decree of this court to the Supreme Court of the United States; and that a citation with notice of said appeal may be forthwith issued by the clerk of this court to the appellees, and that the same may be served by the marshal of this district upon the said appellees, or their solicitor or agent, and returned to this court within thirty days from the issuing thereof. All of which is ordered accordingly.

Citation of Appeal and Return.

Copy of the citation of appeal issued in pursuance of the above order with the return of the marshal thereon, to wit:

In the name and by the authority of the United States of America, to the heirs and legal representatives of George I. F. Clarke, deceased, and of George Atkinson, deceased, or to their agent, attorney, or solicitor, greeting:

You are hereby cited and admonished, that an appeal has been taken on the part of the United States, from the decree of the superior court of East Florida to the Supreme Court of the United States, in a certain claim to fifteen thousand acres of land, wherein you, the said heirs, are claimants, and the said United States, respondent; and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

Witness the honorable Isaac H. Bronson, judge of our said [L. S.] court, at the court-house in the city of St. Augustine, this 24th day of July, A. D. 1840.

K. B. GIBBS, *Clerk.*

THOS. DOUGLAS, *Dist. Attorney.*

J. B. LANCASTER,
P. S. SMITH,
Solicitors for Claimants.

"Served, by delivering a copy of this process to Joseph B. Lancaster, Esq. July 27th, 1840.

JOHN M. FONTANE, *Dep. Marshal.*"

SUPERIOR COURT, *District of East Florida.*

I, Kingsley B. Gibbs, clerk of the said court for the district aforesaid, do hereby certify, that the foregoing twenty-four pages and twenty-eight lines, contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge; and that the plat of survey hereto attached and made a part of this record, is truly and correctly taken and copied from said document, as offered in evidence in this cause, on file in my office.

In witness whereof, I have hereto set my hand and affixed [L. S.] the seal of the said court, at the city of St. Augustine, this twentieth day of November, A. D. 1840.

K. B. GIBBS, *Clerk.*

By the Honorable Isaac H. Bronson, Judge of the Superior Court for the district of East Florida, to all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida; that all due faith and credit are, and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereunto set my hand, at the city of St. Augustine, this 20th day of November, A. D. 1840, and in the sixty-fifth year of the independence of the United States of America.

I. H. BRONSON, *Judge*, &c.